

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

Wilmington Savings Fund Society, FSB,
d/b/a Christiana Trust, Not Individually
but as Trustee for Hilledale Trust,

Plaintiff

vs.

Brian K. Segal and Patrick O'Donoghue,
misidentified in the subject mortgage as
Patrick O'Donoghue,

Defendants

Brian K. Segal,

Party-In-Interest

CIVIL ACTION NO: 2:18-cv-00180-JDL

RE:

44 Wardtown Road, Freeport, ME 04032

Mortgage:

November 22, 2006

Book 24601, Page 3

CONSENT JUDGMENT OF FORECLOSURE AND SALE

Now comes the Plaintiff, Wilmington Savings Fund Society, FSB, d/b/a Christiana Trust, Not Individually but as Trustee for Hilledale Trust, and the Defendant and Party-In-Interest, Brian K. Segal, by and through their undersigned counsel, and hereby submit this Corrected Amended Consent Judgment of Foreclosure and Sale.

On November 12, 2018, Plaintiff filed a Motion for Entry of Default as to Defendant Patrick O'Donoghue. On November 13, 2018, Plaintiff received the court order granting the Motion for Entry of Default as to Defendant, Patrick O'Donoghue. Thereafter, Plaintiff filed a Motion for Default Judgment as to Defendant, Patrick O'Donoghue.

Count II – Breach of Note, Count III – Breach of Contract, Money Had and Received, Count IV – Quantum Meruit, and Count V – Unjust Enrichment, are hereby **DISMISSED** as to Brian K. Segal only without prejudice at the request of the Plaintiff. **JUDGMENT** on Count I – Foreclosure, is hereby **ENTERED** by agreement as to Brian K. Segal as follows:

1. If the Defendants or their heirs or assigns pay Wilmington Savings Fund Society, FSB, d/b/a Christiana Trust, Not Individually but as Trustee for Hilledale Trust (“Wilmington”) the amount adjudged due and owing (\$133,430.63) within 90 days of the date of the

Judgment, as that time period is calculated in accordance with 14 M.R.S.A. § 6322, Wilmington shall forthwith discharge the Mortgage and file a dismissal of this action on the ECF Docket. The following is a breakdown of the amount due and owing:

Description	Amount
Principal Balance:	\$74,710.67
Unpaid Interest:	\$35,148.91
Escrow Advance:	\$17,737.31
Recoverable Balance:	<u>\$5,833.74</u>
Total:	\$133,430.63

2. If the Defendants or their heirs or assigns do not pay Wilmington the amount adjudged due and owing (\$133,430.63) within 90 days of the Judgment, as that time period is calculated in accordance with 14 M.R.S.A. § 6322, their remaining rights to possession of the Freeport Property shall terminate, Wilmington shall conduct a public sale of the Freeport Property in accordance with 14 M.R.S.A. § 6323, disbursing the proceeds first to itself in the amount of \$133,430.63 after deducting the expenses of the sale, with any surplus to be disbursed pursuant to Paragraph 5 of this Judgment, and in accordance with 14 M.R.S.A. § 6324.
3. Pursuant to 14 M.R.S.A. § 2401(3)(F), the Clerk shall sign a certification after the appeal period has expired, certifying that the applicable period has expired without action or that the final judgment has been entered following appeal.
4. The amount due and owing is \$133,430.63 as of March 20, 2019.
5. The priority of interests is as follows:
 - a) Wilmington Savings Fund Society, FSB, d/b/a Christiana Trust, Not Individually but as Trustee for Hilldale Trust has first priority, in the amount of \$133,430.63, pursuant to the subject Note and Mortgage.
 - b) Brian K. Segal has second priority behind the Plaintiff pursuant to a Judgment dated November 28, 2012, in the amount of \$25,379.03, and recorded in the Cumberland County Registry of Deeds in Book 30419, Page 324.
 - b) Brian K. Segal and Patrick O'Donoghue have third priority behind the Plaintiff.
6. The prejudgment interest rate is 6.75000%, *see* 14 M.R.S.A. § 1602-B, and the post-judgment interest rate is 8.59%, *see* 14 M.R.S.A. § 1602-C.

7. The following information is included in this Judgment pursuant to 14 M.R.S.A. § 2401(3):

	PARTIES	COUNSEL
PLAINTIFF	Wilmington Savings Fund Society, FSB, d/b/a Christiana Trust, Not Individually but as Trustee for Hilldale Trust	John A. Doonan, Esq. Reneau J. Longoria, Esq. Doonan, Graves & Longoria, LLC 100 Cummings Center, Suite 225D Beverly, MA 01915
DEFENDANTS	Brian K. Segal 223 Walton Street Portland, ME 04103 Patrick O'Donoghue, misidentified in the subject mortgage as Patrick O'Donaghue 44 Wardtown Road Freeport, ME 04032	Richard P. Olson, Esq. Curtis Thaxter, LLC One Canal Plaza, Suite 1000 Portland, ME 04101
PARTY-IN-INTEREST	Brian K. Segal 223 Walton Street Portland, ME 04103	Richard P. Olson, Esq. Curtis Thaxter, LLC One Canal Plaza, Suite 1000 Portland, ME 04101

- a) The docket number of this case is No. 2:18-cv-00180-JDL.
- b) All parties to these proceedings received notice of the proceedings in accordance with the applicable provisions of the Federal Rules of Civil Procedure.
- c) A description of the real estate involved, 44 Wardtown Road, Freeport, ME 04032, is set forth in Exhibit A to the Judgment herein.
- d) The street address of the real estate involved is 44 Wardtown Road, Freeport, ME 04032. The Mortgage was executed by the Defendants on November 22, 2006. The book and page number of the Mortgage in the Cumberland County Registry of Deeds is Book 24601, Page 3.
- e) This judgment shall not create any personal liability on the part of the Defendants but shall act solely as an in rem judgment against the property, 44 Wardtown Road,

Freeport, ME 04032.

Dated: May 20, 2019

/s/ Reneau J. Longoria, Esq.,
John A. Doonan, Esq., Bar No. 3250
Reneau J. Longoria, Esq., Bar No. 5746
Doonan, Graves & Longoria, LLC
100 Cummings Center, Suite 225D
Beverly, MA 01915

Dated: May 20, 2019

/s/ Richard P. Olson, Esq.
Curtis Thaxter, LLC
Richard P. Olson, Esq.
(Adverse Attorney for Brian K. Segal)
One Canal Plaza, Suite 1000
Portland, ME 04101

SO ORDERED.

Dated: July 26, 2019

/s/ Jon D. Levy
CHIEF U.S. DISTRICT JUDGE